IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.178 of 2006

Ponnammal ... Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai, Chennai.

2.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in Memo No.19/BDFGISV/2006 on the file of the first respondent, quash the detention order dated 20.01.2006 and direct the production of the detenu Elumalai, S/o Krishnasami, presently detained at the Central Prison, Chennai, under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Elumalai, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 20.01.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is undue delay in disposal of the representation of the detenu dated 06.02.2006, which vitiates the ultimate order of detention. With reference to the said aspect, the learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 06.02.2006 was received by the Government on 08.02.2006 and remarks were called for on 10.02.2006. Thereafter, the remarks were received by the Government on 14.02.2006 and the File was submitted on 15.02.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 16.02.2006 and finally, the Minister for Prohibition and Excise passed orders on the same day i.e on 16.02.2006. The rejection letter was prepared on 21.02.2006 and the same was sent to the detenu on 22.02.2006 and served to him on 24.02.2006. The learned counsel for the petitioner by drawing our attention to the fact that though the Officers and the Minister for Prohibition and Excise have considered and passed orders on the representation on the same day i.e. on 16.02.2006 within a day, there is no justification for taking time till 21.02.2006 for preparation of rejection letter, which according to him, is only a formal.

4. We agree with the said contention. As rightly pointed out by the learned counsel for the petitioner, though on receipt of the remarks on 14.02.2006, the file was submitted for orders on 15.02.2006 and the Under Secretary, Deputy Secretary, and the Minister for Prohibition and Excise had considered and passed orders on the representation on 16.02.2006, the rejection letter was prepared only on 21.02.2006. Though it was pointed out by the learned Additional Public Prosecutor that 18.02.2006 and 19.2.2006 were holidays, taking note of the above aspect and in the absence of proper explanation by the person concerned in the form of the counter affidavit, we hold that the time taken for preparation of rejection letter till 21.02.2006 is on the higher side and we further held that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commissioner of Police, Greater Chennai, Chennai.

2.The Secretary to the Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

SGL(CO)
NM(15.06.2006)

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